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# Iowa Legislative Fiscal Bureau

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## Iowa Finance Authority Title Guaranty Program

### ISSUE

This *Issue Review* provides a current fund balance analysis and a financial summary of the 11-year history of the Title Guaranty Program administered by the Iowa Finance Authority.

### AFFECTED AGENCIES

Iowa Finance Authority

### CODE AUTHORITY

Chapter 16, Code of Iowa

### BACKGROUND

The Title Guaranty Program of the Iowa Finance Authority (IFA) was created in SF 577, as passed by the 1985 General Assembly. The creation of the Title Guaranty Division is codified in Section 16.2, Code of Iowa, while the creation of the Title Guaranty Fund and Program is found in Section 16.91.

The Program was established to supplement the abstract-attorneys' opinion system by providing a low-cost mechanism for additional guaranties of real property titles, to facilitate mortgage lenders' participation in the secondary market, and to add to the integrity of the land-title transfer system in the State.

The Program has four sources of funding:

- Title Guaranty fees paid by purchasers of real property at a base rate of \$1.00 per thousand of value. (Section 16.91(1), Code of Iowa)
- A one-time registration fee of \$25.00 paid by title attorneys and abstractors. (Section 16.91(4)).
- Interest on real estate broker trust accounts. (Section 543B.46)
- Interest on the Title Guaranty Fund. (Section 16.91(1))

The money in the Fund may be used for:

- Payment of costs associated with a defective title guaranteed through the Program. (Section 16.91(2))
- The purchase of reinsurance for property transfer values over \$250,000 (previously \$100,000). (Section 16.5 (15))
- Payment of administrative costs. (Section 16.91(1))
- Provision of sufficient reserves for future claims against the Fund. (Section 16.91(3))

The Code of Iowa does not require the Title Guaranty Division to establish premiums on an actuarially sound basis, and the role of the Division of Insurance is limited to assistance in establishing adequate reserves (see Section 16.91(3)). Further, the Code states in Section 16.91(1):

*The division shall fix a charge for the guaranty in an amount sufficient to permit the program to operate on a self-sustaining basis, including payment of administrative costs and the maintenance of an adequate reserve against claims under the title guaranty program.*

That the Program may make a profit is addressed in Section 16.91(1), providing:

*If the authority board in consultation with the division board determines that there are surplus funds in the title guaranty fund after providing for adequate reserves and operating expenses of the division, the surplus funds shall be transferred to the housing program fund created pursuant to section 16.40.*

Since its inception, the Program has provided property transfer guaranties totaling \$1.993 billion, of which \$257.7 million is insured through the reinsurer, Attorney's Title Insurance Fund of Orlando, Florida. Losses are further covered by professional insurance required of participating attorneys and abstractors. Based on an agreement with the Insurance Commissioner in 1988, the Division maintains a loss reserve equal to 15.0% of collected premiums, plus \$1.0 million. At the end of FY 1996, the required reserve equaled \$2,648,360. The 15.0% reserve includes exposure transferred to the insurance company through reinsurance.

According to the annual audit of the Iowa Finance Authority (conducted by KPMG Peat Marwick), the FY 1996 ending balance in the Title Guaranty Fund equaled \$3,631,217 (loss reserve plus ending balance), \$982,857 more than required for the loss reserves. In a letter responding to questions from the Legislative Fiscal Bureau, the Director of the Title Guaranty Division states the additional cushion is maintained to protect against slowdowns in the real estate market.

The following table shows that even if the real estate market were to decrease by 50.0% in one year, enough revenue would be available to fully fund administrative costs and still provide \$440,000 for IFA housing programs.

**Impact on IFA of a Fifty-Percent Reduction in  
Real Estate Market**

Revenue	Actual FY 1996	If Market Reduced 50%	% Reduction
Interest	\$ 218,055	\$ 160,000	26.6
Real Estate Fees	350,443	175,000	50.0

Title Guaranty Fees	1,875,233	938,000	50.0
Total	\$ 2,443,731	\$ 1,273,000	47.9
<u>Expenses</u>			
Administration	\$ 626,508	\$ 645,000	
Reinsurance	97,235	47,000	
New reserves	281,285	141,000	
Total	\$ 1,005,028	\$ 833,000	
Excess	\$ 1,438,703	\$ 440,000	

**FUND ANALYSIS**

If the real estate trust interest income is excluded, along with 37.0% of the Title Guaranty Fund interest (an estimate based on the ratio of real estate trust interest to title guaranty fees over the 11 fiscal years of the Program), the actual use of two separate funding sources by the Division can be shown. The trust interest and related Fund interest should reasonably be excluded from an analysis of the Title Guaranty Program because the money has nothing to do with providing insurance for real estate transactions and requires only minor administrative expenditures from the Division. The following table divides the Title Guaranty Fund into its two funding sources.

<b>IFA Title Guaranty Program</b>				
<b>FY 1986 - FY 1996 *</b>				
	Title	% of	Real Estate	% of
Revenue	Guaranty Fees	Total	Trust Interest	Total
Interest	\$ 889,962	7.5	\$ 522,676	7.7
Real Estate Trust Int.	0	0.0	6,253,160	92.3
Title Guaranty Fees	11,065,765	92.5	0	0.0
Total	\$ 11,955,727	100.0	\$ 6,775,836	100.0

Expenses				
Administrative	\$ 4,258,402	35.6	\$ 0.0	0.0
Reinsurance	423,723	3.5	0.0	0.0
Actual Losses	360	0.0	0.0	0.0
Reserve for Losses	2,648,360	22.2	0.0	0.0
IFA Housing Fund	3,642,025	30.5	6,775,836	100.0
Excess	982,857	8.2	0.0	0.0
Total	\$ 11,955,727	100.0	\$ 6,775,836	100.0

\* Information is from the annual audits of the Iowa Finance Authority.

## CONCLUSIONS

The table above indicates the Title Guaranty Program has been successful when measured against its primary purpose of insuring property transfers against defects in the title (less than \$1,000 in claims have been paid in 11 years), and the Program has also been successful in its secondary purpose of providing funding for housing programs. However, the table also indicates that the majority (65.0%) of the funds provided for housing programs have actually come from the real estate trust interest funding stream and not the Title Guaranty Program. Further, the table shows the percentage of Title Guaranty revenue expended on administration is 35.6%. Finally, the table shows the Division routinely carries almost \$1.0 million in excess reserves that could be used for housing programs in Iowa.

## ALTERNATIVES

The General Assembly could consider the following options:

- Direct the Iowa Finance Authority to retain reserves only in the amount required by the Division of Insurance.
- Direct the Authority to determine if it is necessary to retain reserves for exposure transferred to the reinsurer.
- Redirect the real estate trust account interest directly to housing programs and examine why those receipts have been declining in recent years.
- Direct the Authority to base Title Guaranty rates at a more actuarially sound level.
- Examine the Authority's administrative expenses.
- Direct the Authority to request the Insurance Division re-evaluate the reserve agreement established in 1988, based on actual loss rates experienced during the 11-year Program history.

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